

December 9, 2024

**BY RESS**

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Ms. Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

**Re: ERTH Power Corporation (“ERTH Power”) 2025 Incentive Regulation Mechanism (IRM) Application**  
**Ontario Energy Board (“OEB”) File Number: EB-2024-0021**  
**Request for Written Hearing**

On October 11, 2024, ERTH Power filed its 2025 IRM Application with the OEB wherein it requests that the application be heard by way of a written hearing. Intervention requests were received by the Vulnerable Energy Consumers Coalition (“VECC”) and School Energy Coalition (“SEC”) that both state it is premature to assess whether a written or an oral hearing is more appropriate until interrogatories have been answered.

On December 4, 2024, VECC and SEC filed interrogatories in accordance with Procedural Order No. 1 that was issued on November 20, 2024. Without receiving responses to their interrogatories, VECC and SEC have requested that the OEB hold either a technical conference or an oral hearing on the basis of:

- The “significant and magnitude” of the new administrative and operations facility and the resulting bill impacts;
- Prior experience reviewing new administrative and operational facilities often require further discovery or additional procedural steps; and
- The application does not include a proposal of alternative ways to recognize offset savings.

The OEB invited ERTH Power to respond to the VECC and SEC’s request and provide its position on the record for this case. For the reasons that follow, ERTH Power reiterates its requests that the OEB hold a written hearing and maintain the schedule set out in Procedural Order No. 1.

Section 25.01 of the OEB *Rules of Practice and Procedure* states that technical conferences are held for the purpose of “reviewing and clarifying an application, an intervention, a reply, the evidence of a party, or matters connected with interrogatories.” None of the grounds raised by VECC and SEC meet these purposes, specifically:

- VECC and SEC do not cite any proposition or provide any reasoning to support the assertion that the magnitude of an ICM request or the resulting bill impacts have any relevance or bearing on the need to hold a technical conference to “review or clarify” the Application. The evidence is clear that the existing buildings are at the end of their useful lives and no longer meet the needs of EARTH Power’s operations. VECC and SEC have not raised an evidentiary issue;
- VECC and SEC do not raise any issues specific to this proceeding regarding the adequacy or clarity of the evidence requiring further discovery or additional procedural steps. EARTH Power notes the following cases that considered the construction of multi-million new administrative and operational buildings but neither a technical conference or oral hearing were held: EB-2019-0022, EB-2019-0031, EB-2012-0162, and EB-2008-0244; and
- VECC and SEC are not precluded by Procedural Order No. 1 from making submissions in this proceeding on alternative ways to recognize offset savings. The statements cited by SEC simply indicate EARTH Power’s openness to considering alternatives to what is currently proposed in the application. This is not an evidentiary issue.

Considering the foregoing, EARTH Power requests that the OEB dismiss the interveners’ request for additional procedural steps, such as a technical conference, for further discovery on the application. Additional process is not needed and will result in regulatory inefficiency by unnecessarily prolonging the hearing process. Both the Ministry of Energy’s Letter of Direction and the OEB’s objectives in the *Ontario Energy Board Act, 1998* direct the OEB to promote cost effectiveness and economic efficiency in the distribution sector.

Please contact the undersigned for any questions or concerns.

Sincerely,



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cc: Chris White, President, EARTH Power Corporation